

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Feb-13-2009 4:06 pm

Case Number: CGC-09-484985

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COMPLAINT

DAVID ULANSEY VS. ROBERT A MCDERMOTT et al

001C02402648

Instructions:

Please place this sheet on top of the document to be scanned.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

ROBERT A. McDERMOTT, an individual, and DOES 1 through 10,
inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

DAVID ULANSEY

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER
(Número de Caso):
CC-09-484985

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Richard E. Levine, LEVINE & BAKER LLP
One Maritime Plaza, San Francisco, CA 94111 (415) 391-8177

DATE:

(Fecha) **FEB 19 2009**

CLERK BY: **GORDON**
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Richard E. Levine (SB 88729) LEVINE & BAKER LLP One Maritime Plaza, Suite 400 San Francisco, CA 94111 TELEPHONE NO.: 415-391-8177 FAX NO.: 415-391-8188		FILED Superior Court of California County of San Francisco FEB 13 2009 GORDON PARK II, Clerk BY: <i>[Signature]</i> Deputy Clerk	
ATTORNEY FOR (Name): Plaintiff DAVID ULANSEY SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco 94102 BRANCH NAME: Civic Center Courthouse		CASE NUMBER: CEC-09-484985 JUDGE: DEPT:	
CASE NAME: DAVID ULANSEY v. ROBERT A. McDERMOTT, et al.			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☒ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☐ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☐ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|--|

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): **2**

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 13, 2009
 Richard E. Levine

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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FILED
Superior Court of California
County of San Francisco

FEB 13 2009

FEB 13 2009

GORDON PARKER, Clerk

BY: Julie E. [Signature]
Deputy Clerk

MANAGEMENT CONFERENCE

JUL 17 2009 - 09 AM

DEPARTMENT 212

SUMMONS

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DAVID ULANSEY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DAVID ULANSEY, an individual,

Plaintiff,

vs.

ROBERT A. McDERMOTT, an individual,
and DOES 1 through 10, inclusive,

Defendants.

Case No. **CCC-09-484985**

UNLIMITED JURISDICTION

COMPLAINT FOR LIBEL, AND
INDUCING BREACH OF CONTRACT

Plaintiff David Ulansey, for his Complaint against defendants, alleges as follows:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Plaintiff David Ulansey is a resident of Berkeley, California. At the time of the filing of this Complaint, plaintiff Ulansey remains employed as a professor by the California Institute of Integral Studies ("CIIS"), an institution of higher education in San Francisco. Plaintiff has been a professor at CIIS, working in San Francisco, for approximately fifteen (15) years.

2. Defendant Robert A. McDermott is a resident of San Francisco and, like plaintiff, a professor at CIIS. Defendant McDermott is the program chairperson for the "Philosophy, Cosmology and Consciousness" program of CIIS ("PCC"), the program in which plaintiff

1 teaches. Defendant McDermott is a former president of CIIS. The actions and statements of
2 defendant McDermott alleged herein took place in San Francisco.

3 3. The true names and capacities of defendants sued herein as DOES 1 - 10 are
4 unknown to plaintiff, who therefore sues such defendants by such fictitious names. Plaintiff will
5 amend this complaint to allege the true names and capacities of such defendants when
6 ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously
7 named defendants is responsible in some manner, in contract, tort or statute, for the damages to
8 plaintiff as herein alleged.
9

10 4. Except to the extent indicated below, each of the defendants was the agent,
11 employee, confederate and co-conspirator of all co-defendants and in doing the things herein
12 alleged was acting within the course and scope of such agency, employment or conspiracy and
13 with the permission and consent of each co-defendant.

14 5. The published mission statement of the PCC program declares a purpose, the
15 offering to students (who are all graduate students; i.e., students who have already received
16 undergraduate college degrees) of "new ways of thinking and being that are both visionary and
17 pragmatic and that resist the paradigm of fragmentation and reductionism that continues to reign
18 within the dominant culture." In fact, the PCC program at CIIS is dominated by faculty,
19 including defendant McDermott, who share a philosophical/religious New Age belief that the
20 world must be "reenchanted." This view, within the meaning ascribed to it by defendant
21 McDermott and other members (excluding plaintiff) of CIIS's PCC faculty, is associated with
22 "Anthroposophy," a religious movement that posits the existence of secret, spiritual realms
23 (populated by spiritual "entities") that adepts can come to experience. "Reenchantment," as
24 understood by defendant McDermott, includes the notion that magic (in the sense of the
25

manipulation of occult forces to cause effects in the physical world) must be brought back into the world, and that such notions as empirical science, logic and what others may view as objective reality (i.e., "the paradigm of fragmentation and reductionism that continues to reign in the dominant culture") are enemies of the "reenchantment" which will bring people into harmony with each other and the various spiritual worlds.

6. The particular "anthroposophy" practiced by defendant McDermott is Christian in outlook. That is, McDermott posits what he refers to as "a Christo-centric view of and evolution of consciousness," and asserts, "the centrality of Christ – in cooperation with Buddha and other spiritual beings in service of humanity and the earth . . ." (Excerpt from defendant McDermott's article, "Anthroposophical and Transpersonal Worldviews," LapisMagazine.org (2001)).

7. At the start of plaintiff's tenure with CIIS in or about 1993, plaintiff was a member of the faculty of the "Philosophy and Religion" program. Two to three years later, PCC was created as a separately administered academic group within the "Philosophy and Religion" program. Plaintiff was assigned to PCC because his academic specialties (including the history of religions, particularly the religious movements of the late pre-Christian and early Christian period, including Gnosticism, early Christianity, Judaism, and the "mystery" cults of the period) seemed aligned with the new PPC group's focus. With the PCC faculty now defined as a separate group, however, McDermott (then the president of CIIS with a great influence in the school) staffed the group with like-minded "new age" faculty sympathetic to McDermott's anthroposophical belief system. Plaintiff increasingly found himself alone among a group of academics who propounded – and taught to CIIS students – a world view that science, logic and the notion of objective reality are obstacles tending to blind humanity to the true nature of

1 reality, which includes non-material spiritual realms inhabited by complex hierarchies of
2 spiritual beings (e.g. gods, angels, non-material forces, archetypes, etc., all of which act in and
3 cause effects in the physical world). This worldview also promotes practices designed to
4 develop in its followers the ability to interact with these various spiritual beings and, ultimately,
5 to manipulate them to cause "magical" effects in the physical world.

6
7 8. Part of the world view promulgated by defendant McDermott within CIIS is that
8 the use of psychoactive substances such as LSD and ecstacy can assist in freeing people
9 (including PCC students) from the false and misleading constraints of apparently objective
10 reality, including science and rationality. In promulgating this world view, defendant McDermott
11 and certain of his PCC colleagues (not including plaintiff) have encouraged, and continue to both
12 encourage and provide logistical support in the form of scheduling and site identification, for the
13 unsupervised group use of LSD, ecstasy, psilocybin and other controlled and/or illegal
14 substances by PCC students at annual PCC retreats at Esalen Institute at Big Sur. Another
15 feature of the PCC retreats at Esalen is a standing invitation by the PCC faculty (not including
16 plaintiff) to the students (including the female students) to join in group nude hot tub sessions.

17 9. From his earliest exposure to these practices at PCC retreats, in or about 1996,
18 plaintiff both refused to participate and expressed the views to his colleagues, including
19 defendant McDermott, that the encouragement of unsupervised group use of illegal psychotropic
20 substances by CIIS students as well as the practice of nude hot tubbing with those same students
21 (who, in plaintiff's view, were necessarily subject to certain pressures to participate due to the
22 fact that the persons encouraging the behaviors were the very academic faculty who ultimately
23 controlled whether they would achieve their academic goals) was irresponsible, inappropriate
24 and exposed the institution to potential liability. Defendant McDermott was disturbed by the
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1 expression of these views by plaintiff and threatened to force plaintiff out of the program as a
2 result of plaintiff's views on the drug and hot tub issues. (Defendant McDermott also threatened
3 to force plaintiff out of the program when plaintiff objected to defendant McDermott's plans to
4 conduct a public event in which CIIS's PCC program would publicly align itself with the
5 "intelligent design" movement generally, and with the defendants in the *Kitzmiller et al. v. Dover*
6 *Area School District* litigation in which the federal court ultimately determined that the teaching
7 of "intelligent design" was the teaching of religion).

8
9 10. Over the past four to five years, plaintiff has been effectively shunned by
10 defendant McDermott, who interacts with plaintiff only when absolutely necessary.
11 McDermott's actions with regard to plaintiff stem not only from plaintiff's disapproval of
12 defendant McDermott's actions at the Esalen retreats, but from the conflict between
13 McDermott's religious views and plaintiff's scholarship and teaching activities. Plaintiff is an
14 historian whose academic specialty is the religious and cultural developments of the
15 Mediterranean area (from Rome through the middle east to Persia) at the turn of the common era
16 (in the late centuries before the common era and the early centuries of the common era). Thus,
17 plaintiff studies and teaches about the development of Christianity, Gnosticism, Judaism, and the
18 "mystery cults" (such as Mithraism). In so doing, plaintiff necessarily employs the scholarly
19 methods generally employed by scholars working in the area of ancient history. The primary
20 sources are archaeological (material remains), textual and epigraphical (ancient writings and
21 inscriptions). Study of those sources leads, through the application of reason and in light of
22 knowledge previously gained through application of the same scholarly methods, to certain
23 conclusions about what is and what is not true (or at least likely to be true). While this simple
24 explanation of what scholars do would appear utterly obvious and unremarkable at most
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1 institutions of higher learning, at CIIS, particularly within PCC, the premise that one can arrive
2 at the truth (or at least a reliable conclusion or general scholarly consensus about what the truth
3 is) by the application of the empirical method (i.e., the analysis of evidence, and the application
4 of reason to derive conclusions about reality from that evidence) constitutes religious heresy. It
5 is religious heresy because the religious beliefs of defendant McDermott and certain of plaintiff's
6 colleagues in the PCC are premised upon the argument that science (including, but not limited to,
7 chemistry, biology, and physics) and logic are artificial limitations on humanity's understanding
8 of the "more fundamental realities" (i.e., the numerous non-physical worlds – invisible to all
9 except adepts – where the spiritual entities and divine beings live and where reality – and truth –
10 are plastic and mutable). In the view of defendant McDermott and his colleagues, one can
11 derive a "truth" from "other ways of knowing," an amorphous concept suggesting that if a person
12 believes something is true, then it is. Thus, when, for example, a colleague, based on "other
13 ways of knowing" offers as "true" the false proposition that ancient stone-age tribal people lived
14 in perfect harmony with each other and nature and did not know war or murder (because these
15 are modern distortions according to his or her other ways of knowing), it is deemed impolite,
16 disrespectful, abusive and harassing to point out that unanimous respectable scholarly research
17 proves the contrary.
18

19 11. Indeed, the above example occurred on November 18, 2008, at a presentation by a
20 PCC graduate student. The student offered precisely the proposition that tribal, stone-age
21 people lived in absolute and total harmony with each other and nature and neither made war nor
22 caused environmental damage. Plaintiff, along with several CIIS students and non-students (but
23 no other CIIS faculty), was in attendance. Plaintiff, in the discussion period after the
24 presentation, asked whether the student was familiar with certain standard scholarly works
25

1 arguing (from empirical bases) that the student's position was not accurate. Plaintiff saw the
2 question as an appropriate part of his pedagogical function. The student, however, rejected the
3 comment and argued that his presentation was coming from his heart as well as his mind,
4 suggesting that it didn't matter what might be thought to be "true" for historians or
5 anthropologists; what mattered was what was true for him in his heart. Plaintiff was then
6 verbally attacked by a non-student in attendance who accused him of having no "heart" (i.e., no
7 emotions) and saying, in substance, that it was "people like [plaintiff]" who were responsible for
8 everything that was wrong with the world. Plaintiff decided to challenge the attacker and
9 pointed out that he did, indeed, have a "heart" (i.e., emotions) and that her attack had hurt his
10 feelings. Plaintiff went on to suggest that one should engage not only the heart, but the intellect
11 as well.
12

13 12. Some persons – not yet identified to plaintiff – apparently came away from this
14 November 18, 2008 presentation with the view that by making a critical comment to the
15 presenting student, and/or by responding "from his heart" to the attack by the non-student,
16 plaintiff was engaging in harassment or otherwise acting inappropriately.

17 13. Those persons unhappy with plaintiff's comments on November 18, 2008, were,
18 within days, in communication with defendant McDermott who – though he hadn't been at the
19 event – encouraged them in their judgments regarding plaintiff and encouraged them as well to
20 report those judgments to CIIS administration. Defendant McDermott seized upon the
21 "incident" and initiated a secret campaign to encourage student complaints about plaintiff. That
22 campaign included suggesting to Judie Wexler, the Academic Vice President of CIIS, and Joseph
23 Subbiondo, the President of CIIS, that plaintiff had acted inappropriately. Further, McDermott
24 suggested to both of these persons and to multiple students that plaintiff was in the habit of so
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1 acting (i.e., "harassing and humiliating" students by pointing it out when they were wrong or
2 incorrect in their conclusions or assumptions). Defendant McDermott also, on November 22,
3 2008, sent emails to a selected group of students encouraging them to communicate their
4 "opinions" on plaintiff's conduct at the November 18 "incident" (whether they were there or not)
5 in writing to Academic Vice President Wexler. Defendant McDermott stated to the selected
6 students that "we" [himself, Wexler and President Subbiondo] had "agreed" that the students'
7 emails to Wexler should not be copied to him [McDermott], and he took pains to "remind" the
8 students that their decision to report their opinions were "of your own initiative (not the result of
9 my encouragement)." Of course, it was precisely defendant McDermott's encouragement that
10 produced the campaign against plaintiff. Defendant McDermott's suggestion that the students
11 not copy him on the communications to Wexler was intended to cover up his involvement in the
12 campaign against plaintiff.
13

14 14. Over the ensuing three weeks, Ms. Wexler conducted two conversations with
15 plaintiff. At the first meeting, she told plaintiff that she had received a number of emails
16 complaining about plaintiff's alleged conduct at the November 18 event as well as other
17 unspecified complaints. She refused plaintiff's request to see the emails even with the students'
18 names deleted. She refused to tell plaintiff how many such emails she had received. She said
19 that though she had a recording of the November 18 event, she had not yet listened to it. She
20 told plaintiff that he was "being watched." Plaintiff replied that he had nothing to hide. At the
21 second meeting, Ms. Wexler stated that she had listened to the recording, refused to permit
22 plaintiff to listen to it, asked him to resign and offered to pay him eighteen months of his full
23 salary if he would do so. Plaintiff pointed out that he had done nothing wrong, and that his
24 appointment had three and one-half years to go. Plaintiff asked why he should resign. Ms.
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1 Wexler said, "Because your contract will not be renewed when it comes up [after the three and
2 one-half years]." Plaintiff asked why his contract would not be renewed. In response, Ms.
3 Wexler said nothing about any purported student complaints. She said, instead, "Because the
4 other faculty [i.e., McDermott and his colleagues] do not want you here." Thereafter, on
5 December 17, Ms. Wexler wrote to plaintiff, accusing him of "undermining, demeaning,
6 dominating and humiliating" his students and announced that CIIS would reduce plaintiff's
7 salary by 25%, while proposing that his salary be reduced 50% "for subsequent years." This was
8 an obvious effort to force plaintiff to resign.
9

10 15. CIIS did, in fact, reduce plaintiff's compensation – not by 25%, but by 50% – in
11 or about mid-December 2008. It did so unilaterally and in breach of its contractual obligations
12 and California statute. In so doing, CIIS totally ignored the elaborate procedures set forth in its
13 "Faculty Handbook" before faculty are subjected to dismissal, suspension, demotion, or
14 deprivation of pay for cause. Those procedures include, but are not limited to: the bringing of a
15 "formal charge," in writing, with "reasonable particularity;" the convening of a Hearing Board
16 consisting of three full professors (and a procedure for disqualifying any of those professors for
17 bias or conflict of interest); service of at least 20 days notice of the commencement of the
18 hearing; a verbatim record of the hearing; a burden of proof of "clear and convincing evidence"
19 to support the imposition of penalties; an opportunity to be represented by counsel; an
20 opportunity to do discovery pre-hearing; an opportunity for the charged faculty member to
21 present witnesses and to confront his or her accusers; findings based "solely" on the hearing
22 record; and a negative determination as to the faculty member only if two of the three hearing
23 officers agree. Not only did CIIS ignore all of these supposed procedures in connection with the
24 unilateral reduction in plaintiff's compensation, but CIIS also suspended plaintiff from his
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1 teaching assignment without invoking any of those procedures. CIIS took the above actions
2 (including the decision to deny plaintiff the due process procedures set forth in the Faculty
3 Handbook) because defendant McDermott (a former president of CIIS, the chair of PCC and a
4 very influential person within the CIIS community) insisted – with knowledge of plaintiff's
5 contractual rights – that it do so.

6
7 16. Not content to deprive plaintiff of his contractually required compensation and
8 cause him to be suspended from teaching duties, defendant McDermott then demanded of
9 plaintiff – in writing – that plaintiff not only agree to (i.e., not contest) the contract revisions Ms.
10 Wexler had proposed (i.e., a reduction in plaintiff's compensation), but also affirm plaintiff's
11 agreement to all the negative characterizations of him stated by Wexler in the letter. McDermott
12 further stated that he, McDermott, would demand additional unspecified constraints upon
13 plaintiff's teaching and speaking if plaintiff were remain at CIIS. Finally, McDermott threatened
14 to attack plaintiff's character in a written communication to all PCC students and faculty – a
15 communication that McDermott knew and intended would be distributed beyond the PCC
16 community and out into the general CIIS community, and knew and intended would do
17 substantial harm to plaintiff's reputation, specifically including his reputation as a scholar and
18 professor. Plaintiff responded to McDermott, asking him not to send the letter and putting him
19 on notice that plaintiff regarded the letter as libelous.

20
21 17. Notwithstanding plaintiff's response, on January 24, 2009 – a Saturday –
22 defendant McDermott distributed a memo by email to "PCC Students," a true and correct copy
23 of which is attached hereto as Exhibit A and incorporated herein by reference. The memo was,
24 in fact, received by most, if not all, PCC students (of whom there were at least one hundred),
25 including numerous PCC students in and around San Francisco. The subject line on the memo

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1 is: "Re: David Ulansey." The memo begins with the claim that "the PCC program is committed
2 to open, public, vigorous, and respectful expression of intellectual convictions." It then accuses
3 plaintiff of being "an exception to this commitment" at "a PCC-sponsored event in mid-
4 November" McDermott accuses plaintiff of "respond[ing] to students in an intensely
5 emotional and combative manner." McDermott further states, "the Institute welcomes open
6 debate and an atmosphere of respect for individuals and their ideas," clearly implying (and
7 necessarily understood by the recipients to imply) that plaintiff (who is, after all, the subject of
8 the memo) is an exception. McDermott then "encourages" students who "observe a faculty
9 member verbally abusing or humiliating a student," "to report such behavior;" clearly implying
10 that plaintiff had verbally abused and humiliated a student on November 18. McDermott
11 continues by urging, "let us all lift the level of discourse and respect to be accorded to every
12 student and faculty member in our program . . . and let us ever more vigorously support each
13 student's freedom of conviction and expression," again implying clearly that plaintiff had
14 violated these lofty goals. Finally, McDermott encourages students to respond with their
15 "opinions."

17 18. Defendant's January 24, 2009 email to everyone in the PCC program is packed
18 with lies about plaintiff, lies which defendant McDermott knew were false and which defendant
19 McDermott intended to damage, and which naturally would have damaged (and, indeed, have
20 damaged), plaintiff's reputation in general, and in particular his reputation for being qualified for
21 his profession – a profession for which he is eminently qualified and which he has been
22 practicing for some twenty-five years. First, the PCC program is most definitely NOT
23 committed to open, public, vigorous and respectful expression of intellectual convictions. The
24 PCC program is precisely the opposite: anyone who expresses an intellectual conviction out-of-
25

step with the religious worldview of defendant McDermott and his like-minded colleagues is made a pariah. It is not true that plaintiff is an exception to this supposed commitment; indeed, he may be the only member of the PCC faculty who adheres to such a commitment. Plaintiff was neither "combative" nor "intensely emotional" in his response to the non-student's attack on November 18, 2008 – and McDermott either knew his statements were untrue, or made them in willful disregard of the truth. Plaintiff did not verbally abuse or humiliate any student on that night, and McDermott knew his statements to the contrary were untrue. Plaintiff had at the time, and has had throughout his tenure at CIIS, respect for his fellow faculty and students – as McDermott well knows and knew on January 24, 2009. And plaintiff has consistently supported students' freedom of expression and freedom of belief (which is presumably what McDermott meant by "freedom of conviction") – though such support has not always included pretending a student who is incorrect in an opinion or conclusion is actually correct – or as certain persons within the PCC (including McDermott) suggest – agreeing that as long as someone believes something, it cannot be wrong. Defendant McDermott knew his statements in this regard were untrue as well.

19. As a result of defendant McDermott's campaign of defamation and his use of his influence at CIIS to induce that institution to breach its contract with plaintiff, plaintiff is, at the time of the filing of this complaint, suspended from teaching activities, suffering a fifty percent (50%) reduction of his contractual compensation, and substantial damage to his reputation both in general and with respect to his qualifications for his profession, specifically.

FIRST CAUSE OF ACTION

(Libel)

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1 20. The allegations of paragraphs 1 through 19 above are incorporated herein by
2 reference.

3 21. Defendant McDermott's publication of the January 24, 2009 memorandum to all
4 students and faculty of the PCC, as well as to CIIS administrators, constituted libel and libel *per*
5 *se*.

6 22. The January 24, 2009 memorandum published by McDermott was republished by
7 Does 1 through 5 to persons to whom McDermott had not originally published the memorandum.
8 Such Doe defendants had knowledge of the falsity of the disparaging statements concerning
9 plaintiff in the January 24, 2009 memorandum, and had an intent to damage plaintiff's
10 reputation.
11

12 23. The January 24, 2009 memorandum was, in fact, received by all or nearly all
13 students within the PCC program at CIIS, by all CIIS faculty, by Judie Wexler, Academic Dean
14 of CIIS, and by Joseph Subbiondo, President of CIIS, among others whom defendant McDermott
15 and the Doe defendants had published said memorandum to.

16 24. The defamatory publications described above have in fact damaged plaintiff's
17 reputation, particularly his reputation for being qualified for his profession. Prior to the
18 defamatory publications, plaintiff's reputation, and particularly his reputation for being well
19 qualified for his profession, was strong.
20

21 25. The above-described defamatory publications were not privileged because
22 defendants knew them to be false, and because defendants published them with personal
23 animosity, hatred and ill-will toward plaintiff, which animosity, hatred and ill-will was a function
24 of defendants' resentment of plaintiff's disapproval of defendants' above-described conduct at
25

1 the PCC Esalen retreats, and plaintiff's pursuit and practice of scholarship and teaching that
2 defendants perceived as contrary to their religious beliefs.

3 26. As a direct and proximate result of the above-described wrongful actions by
4 defendants, plaintiff has suffered loss of his reputation, shame, mortification and hurt feelings,
5 all to his general damage.

6 27. In addition to general damage, the above-described wrongful actions have directly
7 and proximately cause special damages to plaintiff in an amount in excess of \$500,000, including
8 but not limited to emotional distress and financial harm, including the reduction of his
9 compensation by CIIS and the possible loss of his job altogether, which loss is anticipated as of
10 the filing of this Complaint.

11 28. The above-described wrongful actions were done by defendants with malice,
12 oppression and fraud, thus entitling plaintiff to an award of exemplary and punitive damages.
13

14 15 SECOND CAUSE OF ACTION

16 (Inducing Breach of Contract, Defendant McDermott Only)

17 29. The allegations of paragraphs 1 - 28 above are incorporated herein by reference.

18 30. Defendant McDermott knew the terms of plaintiff's contract with CIIS, which
19 contract, as of November 2008 had more than three and one-half years to run and provided
20 compensation (including wages and benefits) to plaintiff in an amount in excess of \$90,000 per
21 year.
22

23 31. Beginning at least as early as November 22, 2008, defendant McDermott, in
24 doing the things alleged above (including organizing a campaign of student complaints against
25 plaintiff, and publishing the above-described libelous memo to not only the entire PCC program,

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1 but to the Academic Vice President and the President of CIIS), and further, by advising CIIS's
2 Academic Vice President and President that neither he (McDermott) nor his PCC colleagues
3 wished to work with plaintiff any longer and urging successfully that CIIS seize upon the
4 November 18 event (the complaints regarding which McDermott solicited and encouraged) to
5 provide a pretext for demanding plaintiff's resignation, or – if plaintiff would not resign – to
6 reduce plaintiff's compensation and suspend his teaching assignments without affording
7 plaintiffs the due process protections of the Faculty Handbook, wrongfully and successfully
8 induced PCC (an institution at which defendant McDermott, a former president, exerted great
9 influence) to breach its contract with plaintiff.
10

11 32. Defendant McDermott was motivated to engage in this wrongful action by animus
12 against plaintiff borne of two sources: Plaintiff's disapproval of defendant McDermott's
13 practices of encouraging the use of illegal drugs and nude hot tubbing with the PCC faculty by
14 PCC students at the annual Esalen retreats and the fact that plaintiff's academic approach and
15 teaching practices were perceived by defendant McDermott as contrary to said defendant's
16 religious beliefs, which beliefs McDermott wished to spread among PCC's students without
17 what he regarded as the critique of such beliefs implied by plaintiff's academic positions and
18 teaching practices.
19

20 33. As a direct and proximate result of defendant McDermott's said wrongful actions,
21 plaintiff has suffered damages including but not limited to a reduction in his contractual
22 compensation, suspension of his teaching assignments, emotional distress, humiliation,
23 embarrassment and damage to his reputation, all in an amount in excess of \$500,000.
24
25

1 34. In doing the wrongful things alleged above, defendant McDermott acted with
2 malice, oppressively and fraudulently, thereby entitling plaintiff to punitive and exemplary
3 damages.
4

5 WHEREFORE, plaintiff prays judgment in its favor and against defendants as follows:
6

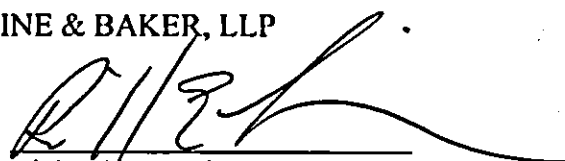
7 1. On the first cause of action, for general damages to his reputation, and for actual
8 damages in excess of \$500,000 subject to proof at trial, and for exemplary and punitive damages;

9 2. On the second cause of action, for actual damages in an amount in excess of
10 \$500,000 subject to proof at trial, and for exemplary and punitive damages;

11 3. On both causes of action, for costs of suit incurred herein and for such other and
12 further relief as the Court deems just and proper.

13 Dated: February 13, 2009

14 LEVINE & BAKER, LLP

15
16 By: 

17 Richard E. Levine
18 Attorneys for Plaintiff
19 DAVID ULANSEY
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To: PCC Students
From: Robert McDermott, Program Chair, PCC
Re: David Ulansey
Date: 24 January 2009

I think it is well known that the PCC program is committed to open, public, vigorous, and respectful expression of intellectual convictions. In an exception to this commitment, at a PCC-sponsored event in mid-November, David Ulansey reportedly responded to students in an intensely emotional and combative manner. In reply to the several students who contacted me concerning this incident I explained that Academic Vice President Judie Wexler was reviewing it and that students who wished to do so should send their accounts directly to her. Students were assured that she would keep their correspondence confidential, and she has done so.

A significant number of students who were not in attendance also wrote to the Academic Vice President with similar complaints. Subsequently, as a result of several meetings between David and the Vice President, some students wrote to the Vice President in support of David. The Vice President will soon write to all of the students who have written to her.

The purpose of this letter is to assure those of you who have written to the Vice President concerning David that your letters have been taken with utmost seriousness. The Academic Vice President and I also want you to know that the Institute welcomes open debate and an atmosphere of respect for individuals and their ideas. Should you observe a faculty member verbally abusing or humiliating a student, that you are encouraged to report such behavior to her.

At the start of the semester and at a truly great moment in our national history let us all lift the level of discourse and respect to be accorded to every student and faculty member in our program, let us continue to inquire widely and deeply, and let us ever more vigorously support each student's freedom of conviction and expression.

I am always eager to receive your opinions by email, by phone (415.722.2131), and in person.

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